Social Media Friend or Foe?
Navigating the legal minefield successfully

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Workshop Aims

• Grounding in copyright and legal matters
• Awareness of the legal risks around social media and how to manage them
• Understand the issues around personal, professional and facilitated use of social sites
• Clarify good practice approaches and University policy
• Identify sources of further help and advice
Disclaimer

We are not lawyers!
Overview

1. Introduction & open questions
2. Copyright 101
3. Social networking legal basics
4. The risky, risky world of social media
   - Tea break
5. Platforms, sites and specific issues
6. Facilitating others use of social media
7. Best practice and further help
8. Review and answers...
1) Introduction

• Is social media your friend or your foe?
  - a wonderful collaborative and productive tool for driving forward innovation, research and education.
  - the easiest way to find yourself sacked by your employer and up before a judge for breaking the law
Social Media Risk in a Nutshell

• Every word you take
  - Every tweet you make
  • Every link you break
    - Every image you take...

• They'll be watching you!

(with apologies to The Police)

The only no risk approach to social media is to stay legal, keep within sites terms, and think before you do anything!
2) Copyright 101

• The CDPA (1988) is the key legal framework
  - Although galloping technology, lumbering legislation
  - Hargreaves report recommends improvements

• When does the fair dealing defence apply?

• What are the key things about rights holders?
  - Moral and economic rights
  - Employer rights

• Why is 3rd Party material important socially?

• For a more detailed overview
  - See the Copyright for Academic Modules course
Creative Commons & Open Licences

- A way to propagate the reuse of work
  - Permits reuse without permission request
  - Predefined limitations & restrictions can be applied
  - Internationally recognised & under UK law
  - Three layers of license (human, machine & legal)

- Search engines advanced options
  - Can search for work tagged for reuse
  - Some concerns over sharing permissions
3) Social Networking Legal Basics

- You have social media responsibilities
  - As a user personally and professionally
  - As facilitator of others use of it

- On the Web doesn’t mean Copyright free
  - Copyright doesn’t have to be claimed or listed
  - Creative Commons is a help as encourages reuse

- Sharing or working with illicit or illegal material is much riskier option
  - E.g. showing an infringing YouTube clip to a class
Orphan works and Avatars

• Orphan works
  - Copyrighted works with untraceable rights holders
  - Must display due diligence in attempting to contact
  - Majority of web content has identifiable contacts

• Avatars and handles
  - Pseudonymous online identities
  - As rights holders are contactable
  - Their output is not orphan works
How Green was my Disclaimer

- Disclaimers are useful statements of denial
  - “This blog is a personal view, and not that of the university” or #joke
  - But are not robust legal instruments of defence
- Social media platforms indemnify themselves against your misuse
  - But still liable as facilitators of your action
- When a disclaimer is not enough...
  - Robustly enforced takedown policy may be needed
  - Be prepared to apologise and retract
4) The Risky, Risky World

- Exposing yourself and the University to risk
  - A really bad idea you don’t want to happen
  - Exposing the University and gross misconduct

- Risk and social media is a complex entity
  - An analogue rather than digital scale
  - Privacy and openness seldom sit well together
  - “Risk is part of the job”

- Mitigating risk
  - Knowing acceptance of the risks
  - Follow the best practice guidance
😊 No Risk 😊
- Reusing material entirely created and owned by yourself or the University
- Reusing material made available under an open licence
- Reusing material with written permission from the rights holder

😊 Lower Risk 😊
- Posting a link to clearly infringing material
- Retweeting unsubstantiated rumours about an individual
- Posting negative comments about an employer on social sites

😡 Higher Risk 😡
- Reusing third party material in documents which are then distributed electronically on the Web
- Distributing copyright material electronically when you are unclear, or in breach of its copyright status
Risk = Illegality Discovery Litigiousness Fiscal damage

Dangerous

Safer

Adapted from Prof C. Oppenheim
Infringement

Risk

Liability

Court!
If a Tweet is Made in a Forest...

- Passive consumption vs active creation
  - Risks in both activities

- Are there risks if:
  - I watch a YouTube Video in my office?
  - I add an image to a slide uploaded to SlideShare but don’t attribute?

- No one knows- so it doesn’t matter...right?
  - Risk still exists and detection getting easier,
  - Liability remains and may be higher if basic good practice rules not follows
Privacy in an Open World

• Social spaces are open spaces
  - Locked down accounts aren’t 100% secure
  - Don’t trust Facebook not to shift the goal posts
  - Secure twitter account retweeted by followers

• The Bus shelter rule of privacy
  - You wouldn’t scrawl your name, tel and D.O.B. on a bus shelter...
  - Only share what you must

• Don’t break data protection regulations
  - Only require the sharing of essential info
  - Don’t reshare or reuse outside of permissions
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5) Platforms, Sites and Specific Issues

- Examine a variety of sites
- Briefly examine the risks and rights around using them
- Highlight best practice and easy errors
- See book for details
Images and Photosharing

- Images are copyrighted unless otherwise noted
  - Safer to link to an image than share it or reuse

- Attribution is a must under moral rights
  - Even if it’s just an Image by @FotoTel

- Photosharing sites
  - Uploads tagged with searchable reuse licensed rights
  - Check site licences for your uploaded content
  - Query if official photos appear on unofficial account

- Discovery of infringing reuse currently low
  - But case law shows if discovered penalties apply
Microblogging

- Comments in the public shown to be legally attributable
  - Misspeaking appears to make you liable to action

- Clarify interests and purpose in profile
  - Make jokes or less serious comments obvious
  - Speaking as a person or a representative?

- Attribute creator in links to shared content

- Don’t share links to illicit materials

- Think twice, tweet once!
Blogs and Blogging

- Comments in public but length allows for clarification
  - Make sure to include detailed profile
  - A disclaimer can be useful

- Text may be owned by your employer
  - Comments owned by commenter

- Don’t reuse items that might infringe ©
  - Don’t share links to illicit materials

- Hosted sites may have additional IPR issues
  - E.g. Community guidelines for photoblogs
Wikis

- Multiple author contributions means multiple rights holders
  - Ensure usage license clarifies use and reuse

- Sites terms and licenses permit sharing and reuse
  - Named users formally agree
  - Anonymous edits only implicitly agree

- Facilitated use
  - Issues over defamation and inaccuracies
  - Moderation and oversight usually needed
Facebook and Social Community Sites

- **Privacy issues**
  - Facebook famous for shifting rules
  - Data protection for tagging

- **Facilitated access**
  - Defamation, bullying and harassment
  - Comment moderation, removal and responses

- **Unwitting rights gifting to commerce**
  - Loss of institutional IPR
  - Inappropriate reuse in advertisements
Second Life & Multiuser Environments

• Avatars clothing, equipment, housing
  - IPR retained usually by creator
  - EULA from platform owners will define rights

• Objects have a worth
  - Purchased under virtual economy (Linden Dollar)
  - Virtual world - virtual theft?...

• Modding and licensed development
  - Licence terms encourage reuse and adaptation
  - Check for retained and attributed IPR
  - Educational work may be partially claimed by platform
Mixing and Mashups

- Merging of multiple objects means multiple rights holders
  - Reusing materials under license
  - 1st Amendment rights could be claimed in US, but nothing under UK law
  - Extreme care to take account of all rights elements

- Where does infringement take place?
  - The host site?
  - The point of upload?
  - The point of download?
Streaming and Recording Lectures

- Communicated to public raises openness risk
  - Criticism and review defence may apply
    - 3rd party elements used under licence or permission

- Performance rights
  - Retained by performer not employer
  - Reuse of streamed/recorded lecture advisable to seek permission
    - Template disclaimer signed at the time useful

- Audience are incidental
  - Must have informed pre-warned consent
Audio and Podcasts

• Sound recordings an exception to CDPA 1988
  - Your recordings of yourself probably owned by you
  - Reuse by others within the institution may require permission

• Reuse of 3\textsuperscript{rd} party material under licence
  - Rights currently last 50 years after release
  - EU recommendation to increase to 70 years

• Podcast rights analogous to blogs
  - Check licence terms for any retained rights
  - Licence your material under open licences
Web Scraping

- Illicit reuse of your content
  - Blog posts scraped and republished
  - Infringing your rights and the institution’s
  - Ping backs to blogs can warn you

- Impact on your professional creditability
  - Misrepresentation of position or opinion
  - Damage to moral and economic rights

- Challenge on discovery
  - Immediate takedown is the least they can do
  - If refuse or not acknowledged seek legal advice
Content and File Sharing

- **Good and bad issues**
  - Excellent way to share content
  - Content is shared in the clear - publicly visible
  - Many sites black flagged and unsavoury associations

- **Risks**
  - Easy & prolific redistribution of your IPR
  - Consider data protection if sharing in the clear
  - Copyright notice and password no barrier to theft
  - File sharing may be flagged by ITS
  - Comments on content owned by commenters
6) Facilitating Others

- Enabling others use of social media means
  - Making yourself liable for their conduct
  - There is a legal duty of care
  - University use regulations apply to all

- Your personal liability
  - May be less than if you were the infringer
  - Role as enforcer, advocate, advisor and judge
Data Protection

- People control how their appearance is reused
  - Warn audience members in streamed session
  - Consider performance rights for the lecturer

- Personal data should not move outside of EEA
  - E.g. cloud storage of student information

- Sharing ANY personal data socially should be avoided
  - Make students aware of the need for care
  - Do not reuse key biometric data without explicit permission and ethical review
Moderation

• Keeping everything legal and above board in environments
  - Policing comments and discussions
  - Wary of facilitating copyright infringement

• Defamatory and inappropriate content
  - Trolls and troll bait
  - Dealing with bullying and harassment
  - Keeping records of exchanges offline

• Ensuring equity of accessibility
  - Reasonable adjustments under SENDA 2001
7) UoL Internet Usage Policy

• UoL Internet Policy key points
  - IT systems provided for academic and administrative purposes
  - Web authors are held personally accountable for the content of individual pages
  - Not install/use file-sharing or 'peer-to-peer' software for the illegal downloading of copyrighted material

• JANET Policy
  - Unacceptable usage includes infringement, defamation, defrauding and general annoyance
University Social Media Policies

- Social media policy passing through VCAC
- General guidelines on the MarComms pages
  - Representing the University and branding
  - Tone and engagement
  - Accuracy and corrections
  - Respecting rights and copyright
  - Awareness of policies for users
- Guidance on suggested best practice available
Best Practice Tips

• Check the t&cs of media-sharing sites before you upload
• Only link to legal and non-infringing content
• Do not share or reuse content to which you do not own the rights or you do have permission to share
• Respect the rights and privacy of others
• Flag, report and takedown where possible inappropriate content
• The Internet is forever: if it’s best left unsaid, don’t say it
• Encourage others to embrace these guidelines
8) Concluding Remarks

- Social media can easily be your friend, but just as easily it can be a foe
- Risk is a combination of factors but not all social sites generate the same risks
- You are responsible for keeping yourself safe and have a responsibility for others
- Respect the law, follow the guidelines and stay out of court!
Contacts & Final Questions

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